

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

No. 1:23-cv-00108-LMB-JFA

[PROPOSED] ORDER

PURSUANT TO Local Civil Rule 5(C), Plaintiffs and Defendant Google LLC (“Google”) have filed various motions to seal (“Motions”), seeking leave to file under seal certain exhibits and portions of their briefing submitted in connection with the parties’ summary judgment, Daubert, and jury-demand motions; and non-party PubMatic, Inc. (“PubMatic”) filed a Response to the Motions that the parties advised related to PubMatic’s highly confidential documents or data (“Response”).

Upon consideration of the Motions, Response, and supporting papers, the Court finds that:

- (i) sufficient notice has been given (Dkt. Nos. 607, 645, 653, 664, 676, 714, 716, 741);
- (ii) the following exhibits and/or excerpts contain PubMatic’s confidential business information and/or trade secrets (“Sensitive Materials”):

Filing	Citation
Google LLC’s Memorandum of Law in Support of its Motion for Summary Judgment (Dkt. No. 571)	Page 7 ¶ 26
Memorandum of Law in Support of Google LLC’s Motion to Exclude Testimony of Dr. Timothy Simcoe (Dkt. No. 580) (“Simcoe Motion”)	Page 6 n.4

Simcoe Motion	Page 18 n.8
Report of Plaintiffs' Expert Robin S. Lee (Dkt. No. 597-1) ("Lee Report, as Filed by Google"), Exhibit 1 to Declaration of Bryon Becker ("Becker Declaration") in Support of Google LLC's Motion for Summary Judgment and Motions to Exclude	Page 199, Figure 47
Lee Report, as Filed by Google	Page 200, Figure 48
Lee Report, as Filed by Google	Page 201 n.703
Lee Report, as Filed by Google	Page 203, Figure 49
Lee Report, as Filed by Google	Page 203
Lee Report, as Filed by Google	Page 204, Figure 50
Lee Report, as Filed by Google	Page 205, Figure 51
Lee Report, as Filed by Google	Page 214, Figure 54
Lee Report, as Filed by Google	Page D-3, Figure 90
Lee Report, as Filed by Google	Page D-4, Figure 91
Lee Report, as Filed by Google	Page D-5, Figure 92
Lee Report, as Filed by Google	Page D-6, Figure 93
Lee Report, as Filed by Google	Page D-7, Figure 94
Lee Report, as Filed by Google	Page D-8, Figure 95
Lee Report, as Filed by Google	Page D-9, Figure 96
Lee Report, as Filed by Google	Page E-2, Figure 110
Lee Report, as Filed by Google	Page G-1, Figure 122
Lee Report, as Filed by Google	Page G-2, Figure 123
Lee Report, as Filed by Google	Page G-3, Figure 124
Lee Report, as Filed by Google	Page G-4, Figure 125
Report of Plaintiffs' Expert Rosa M. Abrantes-Metz (Dkt. No. 597-2), Exhibit 2 to Becker Declaration	Page 242, Figure 30
Rebuttal Report of Plaintiffs' Expert Robin S. Lee (Dkt. No. 597-3), Exhibit 3 to Becker Declaration	Page B-26, Figure 88

Report of Plaintiffs' Expert Timothy Simcoe (Dkt. No. 597-5) ("Simcoe Report, as Filed by Google"), Exhibit 5 to Becker Declaration	Page 39
Simcoe Report, as Filed by Google	Figure 4
Simcoe Report, as Filed by Google	Figure 7
Simcoe Report, as Filed by Google	Figure 8
Transcript of Deposition of Plaintiffs' Expert Robin S. Lee (Dkt. No. 597-7) ("Lee Deposition, as Filed by Google"), Exhibit 8 to Becker Declaration	Pages 240:10–241:11
Lee Deposition, as Filed by Google	Pages 242:8–243:13
Board Presentation Excerpt (Dkt. No. 599-3)	Entirety
Report of Google's Expert Judith A. Chevalier (Dkt. No. 599-6) ("Chevalier Report, as Filed by Google"), Exhibit 38 to Becker Declaration	Page 46, Figure 10
Chevalier Report, as Filed by Google	Page 73, Figure 17
Rebuttal Report of Plaintiffs' Expert Timothy Simcoe (Dkt. No. 604-2), Exhibit 93 to Becker Declaration	Figure 3
Report of Plaintiffs' Expert Timothy Simcoe (Dkt. No. 644-1) ("Simcoe Report, as Filed by Plaintiffs re Simcoe Motion"), Exhibit A to Plaintiffs' Opposition to Google's Motion to Exclude Testimony of Dr. Timothy Simcoe ("Plaintiffs' Opposition re Simcoe Motion")	Figure 4
Simcoe Report, as Filed by Plaintiffs re Simcoe Motion	Figure 5
Simcoe Report, as Filed by Plaintiffs re Simcoe Motion	Figure 7
Simcoe Report, as Filed by Plaintiffs re Simcoe Motion	Figure 8
Simcoe Report, as Filed by Plaintiffs re Simcoe Motion	Paragraphs 223–24 & Figure 15
Simcoe Report, as Filed by Plaintiffs re Simcoe Motion	Figure 54
Report of Plaintiffs' Expert Robin S. Lee (Dkt. No. 644-4) ("Lee Report, as Filed by Plaintiffs re Simcoe Motion"), Exhibit D to Plaintiffs' Opposition re Simcoe Motion	Page 199, Figure 47
Lee Report, as Filed by Plaintiffs re Simcoe Motion	Paragraph 519
Lee Report, as Filed by Plaintiffs re Simcoe Motion	Page E-2, Figure 110
Rebuttal Report of Plaintiffs' Expert Robin S. Lee (Dkt. No. 644-6) ("Lee Rebuttal Report, as Filed by Plaintiffs re Simcoe Motion"), Exhibit G to Plaintiffs' Opposition re Simcoe Motion	n.723
Lee Rebuttal Report, as Filed by Plaintiffs re Simcoe Motion	Figure 29

Report of Expert Mark Israel (Dkt. No. 644-7) (“Israel Report”), Exhibit H to Plaintiffs’ Opposition re Simcoe Motion	Paragraph 272, Figure 40
Israel Report	Figure 41 (and related discussion)
Report of Google’s Expert Judith A. Chevalier (Dkt. No. 644-13), Exhibit O to Plaintiffs’ Opposition re Simcoe Motion	Page 48, Figure 11
Report of Plaintiffs’ Expert Timothy Simcoe (Dkt. No. 652-12), Exhibit L to Plaintiffs’ Opposition to Google’s Motion to Exclude Testimony of Lim	Paragraphs 223–24 & Figure 15
Report of Plaintiffs’ Expert Robin S. Lee (Dkt. No. 663-1) (“Lee Report, as Filed by Plaintiffs re Lee Motion”), Exhibit A to Plaintiffs’ Opposition to Google’s Motion to Exclude Testimony of Lee (“Plaintiffs’ Opposition re Lee Motion”)	Page 199, Figure 47
Lee Report, as Filed by Plaintiffs re Lee Motion	Page 200, Figure 48
Lee Report, as Filed by Plaintiffs re Lee Motion	Page 201 n.703
Lee Report, as Filed by Plaintiffs re Lee Motion	Page 203, Figure 49
Lee Report, as Filed by Plaintiffs re Lee Motion	Paragraph 494
Lee Report, as Filed by Plaintiffs re Lee Motion	Page 204, Figure 50
Lee Report, as Filed by Plaintiffs re Lee Motion	Page 205, Figure 51
Plaintiffs’ Opposition to Defendant’s Motion for Summary Judgment (“Plaintiffs’ Opposition re MFSJ”) (Dkt. No. 669)	Page 10
Report of Plaintiffs’ Expert Robin S. Lee (Dkt. No. 670-7) (“Lee Report, as Filed by Plaintiffs re MFSJ”), Exhibit 8 to Plaintiffs’ Opposition re MFSJ	Page 199, Figure 47
Lee Report, as Filed by Plaintiffs re MFSJ	Page 200, Figure 48
Lee Report, as Filed by Plaintiffs re MFSJ	Page 201 n.703
Lee Report, as Filed by Plaintiffs re MFSJ	Page E-2, Figure 110
Transcript of Deposition of Plaintiffs’ Expert Robin S. Lee (Dkt. No. 670-25) (“Lee Deposition, as Filed by Plaintiffs re MFSJ”), Exhibit 26 to Plaintiffs’ Opposition re MFSJ	Pages 298:6–299:14
Rebuttal Report of Plaintiffs’ Expert Robin S. Lee (Dkt. No. 673-16) (“Lee Rebuttal Report, as Filed by Plaintiffs re MFSJ”), Exhibit 116 to Plaintiffs’ Opposition re MFSJ	Figure 29
Lee Rebuttal Report, as Filed by Plaintiffs re MFSJ	Figure 30
Google LLC’s Reply in Support of its Motion to Exclude Testimony of Dr. Timothy Simcoe (Dkt. No. 707)	Page 13 n.10

Report of Plaintiffs' Expert Robin S. Lee (Dkt. No. 709-1), Exhibit 127 to Declaration of Bryon Becker in Support of Google LLC's Replies in Support of Google LLC's Motion for Summary Judgment and Motions to Exclude	Appendix H.1
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(iii) only sealing the Sensitive Materials will sufficiently protect PubMatic from competitive harm;

(iv) the limited sealing and redaction properly balances PubMatic's interests as against the public's interest; and

(v) any potential public right of access, whether based on the common law right of access, or the First Amendment right of access, has been overcome; and it is hereby

ORDERED that the motion(s) to seal is GRANTED, as set forth above, and the Sensitive Materials shall remain under seal until further order of the Court.

ENTERED this ____ day of _____ 2024.

Alexandria, Virginia
